

LIMITATIONS ON “THREE STRIKES” LAW. SEX CRIMES. PUNISHMENT. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

Limitations on “Three Strikes” Law. Sex Crimes. Punishment. Initiative Statute.

- Amends “Three Strikes” law to require increased sentences only when current conviction is for specified violent and/or serious felony.
- Redefines violent and serious felonies. Only prior convictions for specified violent and/or serious felonies, brought and tried separately, would qualify for second and third “strike” sentence increases.
- Allows conditional re-sentencing of persons with sentences increased under “Three Strikes” law if previous sentencing offenses, resulting in the currently charged felony/felonies, would no longer qualify as violent and/or serious felonies.
- Increases punishment for specified sex crimes against children.

Summary of Legislative Analyst’s Estimate of Net State and Local Government

Fiscal Impact:

- Net state savings of potentially several tens of millions of dollars initially, increasing to several hundred million dollars annually, primarily to the prison system.
- Increased county costs of potentially more than ten million dollars annually for jail and court-related costs.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

There are three kinds of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime. About 18 percent of persons convicted of a felony are sent to state prison. The rest are supervised on probation in the community, sentenced to county jail, or both.

Existing law classifies some felonies as “violent” or “serious,” or both. Of the inmates sentenced to prison in 2003, approximately 30 percent were convicted for crimes defined as serious or violent. Examples of felonies currently defined as violent include murder, robbery, and rape and other sex offenses. Felonies defined as serious include the same offenses defined as violent felonies, but also include other offenses such as burglary of a residence and assault with intent to commit robbery. There are other felonies that are not classified as violent or serious, such as grand theft and possession of a controlled substance.

As of April 2004, there were about 163,000 inmates in California prisons, as well as some state-contracted facilities. The costs to operate the state prison system in 2004–05 are estimated to be approximately \$5.7 billion.

Three Strikes. Proposition 184 (commonly referred to as the “Three Strikes and You’re Out” law) was adopted by the voters in 1994. It imposed longer prison sentences for certain repeat offenders. Specifically, it requires that a person who is convicted of a felony and who has been previously convicted of one or more violent or serious felonies, be sentenced to state prison as follows:

- **Second Strike Offense.** If the person has *one previous* serious or violent felony conviction, the sentence for *any new*

felony conviction (not just a serious or violent felony) is *twice* the term otherwise required under law for the new conviction. Offenders sentenced by the courts under this provision are often referred to as “second strikers.” As of March 2004, about 35,000 inmates were second strikers.

- **Third Strike Offense.** If the person has *two or more previous* serious or violent felony convictions, the sentence for *any new* felony conviction (not just a serious or violent felony) is life imprisonment with the minimum term being 25 years. Offenders convicted under this provision are frequently referred to as “third strikers.” As of March 2004, about 7,000 inmates were third strikers.

Sex Offenses. California law sets penalties for a variety of sex offenses, including sex offenses committed against children. Current law requires a prison sentence of 3, 6, or 8 years (depending on the circumstances of the crime) for anyone convicted of sexual penetration or oral copulation with a minor who is under the age of 14 and more than 10 years younger than the offender.

PROPOSAL

This measure amends the Three Strikes law and also amends the law relating to sex crimes against children. These changes are described below.

Three Strikes Law

New Crime Must Be Violent or Serious. This measure requires that an offender would be subject to a longer sentence under the Three Strikes law only if the conviction for the new crime is for a violent or serious felony, instead of any felony as provided under current law.